

MINUTE ITEM

14.

5/24/84  
PRC 5259  
Townsend

TERMINATION OF GENERAL LEASE  
COMMERCIAL USE  
KTJ PROPERTIES

During consideration of Calendar Item 14, attached, testimony was heard from the following parties interested in Calendar Items 14 and 15 due to their relative nature:

1. Robert Holland, representing KTJ
2. Jack Chalabian, representing KTJ
3. Robert Harlow, representing Mola Development Corp.
4. James Palin, representing City of Huntington Beach

Upon conclusion of testimony, no motion being made, Acting Chairman McCarthy directed staff to reschedule Calendar Items 14 and 15 for consideration on the agenda of the next Commission meeting.

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CALENDAR ITEM

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05/24/87  
PRC 5259  
Townsend

TERMINATION OF GENERAL LEASE - COMMERCIAL USE  
PRC 5259.1 - KTJ PROPERTIES

LESSEE: KTJ Properties, Inc.  
Attention: Mr. Jack Chalabian  
1522 West 134th Street  
Gardena, California 90249

AREA, TYPE LAND AND LOCATION:  
A 0.894-acre parcel of tide and submerged land,  
located in Huntington Harbour Channel, Orange  
County.

LAND USE: Wharfage and docking facilities for small craft  
incidental to the adjacent upland development.

TERMS OF ORIGINAL LEASE:  
Initial period: 42 years, ten months from  
June 1, 1977.  
  
Surety bond: \$10,000.  
  
Public liability insurance: \$600,000 per  
occurrence for bodily injury  
and \$400,000 for property  
damage, or combined single  
limit coverage of \$1,000,000.  
  
Consideration: \$450 per annum until the  
completion of construction,  
July 1, 1981. Thereafter,  
Lessee shall pay a new annual  
rental to be determined by  
the State. The State also  
reserves the right to fix a  
different rental on each  
fifth anniversary of the  
lease.

CALENDAR ITEM NO. 14 CONT'D

Special: The lease provides that Lessee may mortgage or encumber the lease premises and provides for mortgage protection language, subject to the prior approval and acceptance of the lender by the Executive Officer of the Commission, and execution of a Secured Party-Lender Agreement among the Lessee, Secured Party, and the State.

STATUTORY AND OTHER REFERENCES:

- A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.
- B. Cal. Adm. Code: Title 2, Div. 3; Title 14, Div. 6.

AB 884: N/A.

OTHER PERTINENT INFORMATION:

Lease PRC 5259.1 was initially issued to Harbour-Pacific, Ltd. for a period of 15 years, effective June 1, 1977. The lease premises, consisting of 0.593-acre, was to be developed as a commercial marina with completion of construction on September 1, 1979. Consideration was set at \$450 per annum until completion of the project, and \$5,200 thereafter, with a five-year rent review. On April 26, 1979, the Commission authorized extension of the construction limiting dates from July 1, 1980 to July 1, 1981. By Commission action of October 29, 1979, the lease was assigned to KTJ Properties and amended to increase the lease area, adjust the rental to \$7,858 per annum upon completion of the project, and provide authorization in concept and form for Lessee's mortgaging or encumbering the lease premises for financing purposes with a provision that the secured party lender be approved by the Commission's Executive Officer and that such party execute this Security Agreement. Crocker Bank was never approved as secured party lender nor has it executed a Security Agreement. The lease was amended again on March 19, 1980, providing for a total lease term of 42 years, ten months, effective June 1, 1977; and deletion of renewal options; consideration was amended to \$450 per annum until completion of the project (July 1, 1981) with a new rental to be determined thereafter.

CALENDAR ITEM NO. 14 CONT'D

KTJ Properties entered into a limited partnership with the Robert P. Warmington Company in November 1980, for proposed development of the upland with a condominium subdivision and berthing facilities to extend over the lease premises. The development plans were subsequently revised to propose a single-family lot sale program on the upland and associated berthing. Staff was processing the assignment of the lease to the Warmington partnership and amending the lease type to accommodate a change in the plans from commercial boat docks, to berthing associated with upland residential development, when notified by the lender, Crocker National Bank, of their foreclosure upon the upland property. There was never any formal approval of KTJ's assignment to the Warmington partnership or the latter's encumbrancing of the lease to Crocker.

Staff recommends termination of Lease PRC 5259.1, to KTJ Properties, effective May 24, 1984, on the following grounds:

1 The major default by KTJ on this lease is its failure to construct the improvements as proposed under the terms of the lease, and within the allocated construction limiting dates which expired July 1, 1981, so that income could be generated from the lease premises as contemplated.

2. KTJ's loss of ownership constitutes a separate breach under the lease. Pursuant to the provisions of the lease, the leasehold interest is not severable from the rights and interests of the Lessee in the littoral land without prior written approval of the Commission.

Following foreclosure, Commission staff met with KTJ on a number of occasions to discuss alternative to cure the breaches of the lease, and so that KTJ could provide assurances to staff that KTJ could feasibly and successfully complete development of the lease parcel. Staff, after careful analysis over a period of six months believes KTJ is unable to meet the required conditions for non-termination of the lease

CALENDAR ITEM NO. 14 CONT'D

Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Adm. Code 15061), the staff has determined that this activity is exempt from the requirements of the CEQA, because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

Authority: P.R.C. 21065 and 14 Cal. Adm. Code 15378.

This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. 6370 et seq., but will not affect those significant lands.

- EXHIBITS:
- A. Land Description.
  - B. Parcel Plat.
  - C. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. ADM. CODE 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. ADM. CODE 15378.
2. FIND THAT THIS ACTIVITY WILL INVOLVE LANDS IDENTIFIED AS POSSESSING SIGNIFICANT ENVIRONMENTAL VALUES PURSUANT TO P.R.C. 6370 ET SEQ. BUT THAT SUCH ACTIVITY WILL HAVE NO DIRECT OR INDIRECT EFFECT ON SUCH LANDS.
3. AUTHORIZE THE TERMINATION OF THE STATE'S LEASE PRC 5259.1, TO KTJ PROPERTIES, EFFECTIVE MAY 24, 1984, FOR THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.
4. AUTHORIZE THE EXECUTIVE OFFICER OR HER DESIGNEE AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY OR APPROPRIATE TO TERMINATE OF LEASE PRC 5259.1, INCLUDING THE ACCEPTANCE OF A QUITCLAIM DEED FOR THE LEASE, OR RECORDATION OF A NOTICE OF TERMINATION.

EXHIBIT "A"

LAND DESCRIPTION

WP 5259

A parcel of submerged land in the State-owned Huntington Harbor Channel, situated in protracted Section 19, T5S, R11W, SBM, County of Orange, State of California, more particularly described as follows:

COMMENCING at the intersection of the southwesterly prolongation of the compromise boundary line between Rancho Los Alamitos and Rancho La Bolsa Chica as recorded in Book 115, Page 284, records of Los Angeles County, California, with the northerly line of the 400-foot-wide State-owned channel described as "Strip A" in the deed recorded in Book 6368, Page 411, records of Orange County, California; thence along said northerly line of said Channel S 61° 00' 00" E. 245.67 feet to the TRUE POINT OF BEGINNING; thence continuing along said northerly line of said channel:

S 61° 00' 00" E 638.00 feet; thence  
S 29° 00' 00" W 69.00 feet; thence  
N 61° 00' 00" W 660.53 feet; thence  
N 49° 34' 33" E 64.09 feet to the true point of beginning.

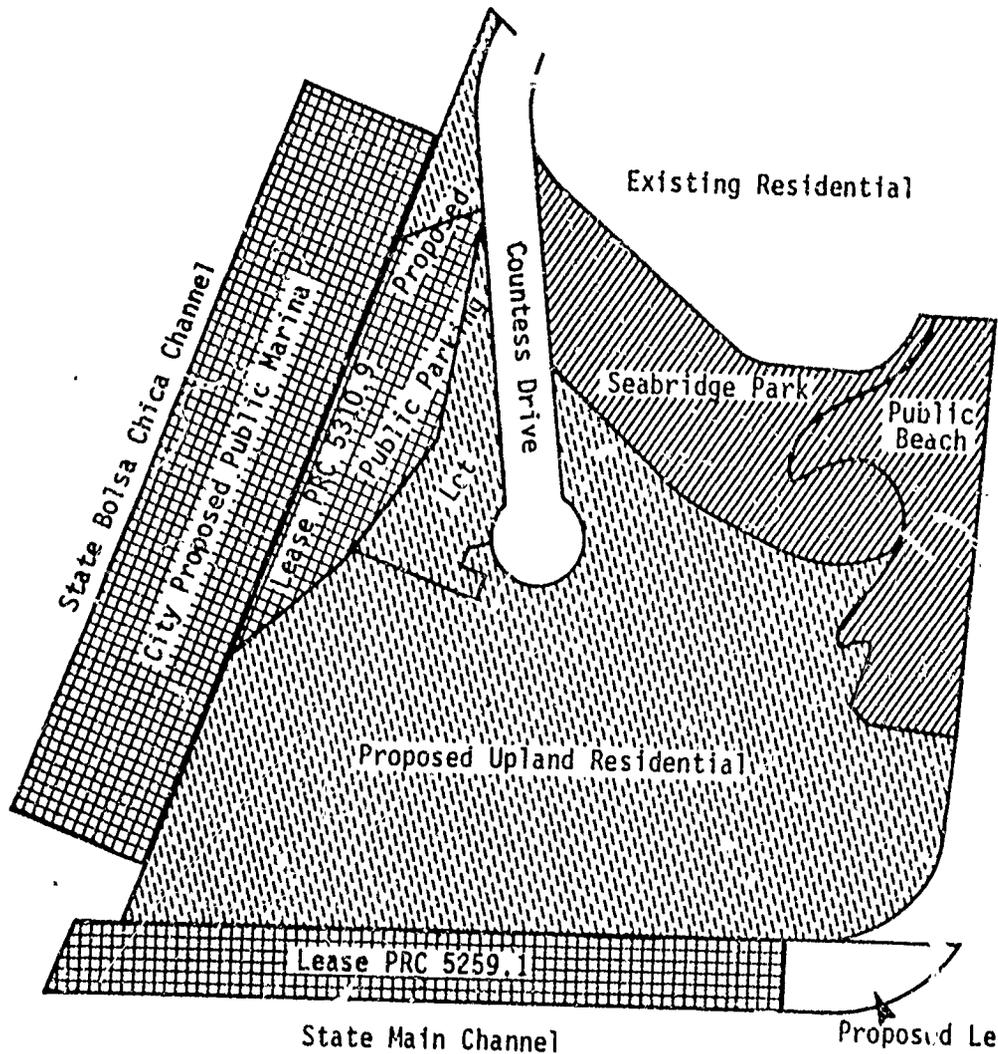
END OF DESCRIPTION

Prepared Garry A. Weldon Checked W. J. [Signature]

Reviewed Garry A. Weldon Date 9/25/79



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Legend

-  State Owned
-  Upland Owner
-  City Public Park & Beach

PRC 5259.1 -- K.T.J. Properties, Inc.

PRC 5310.9 -- City of Huntington Beach

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EXHIBIT

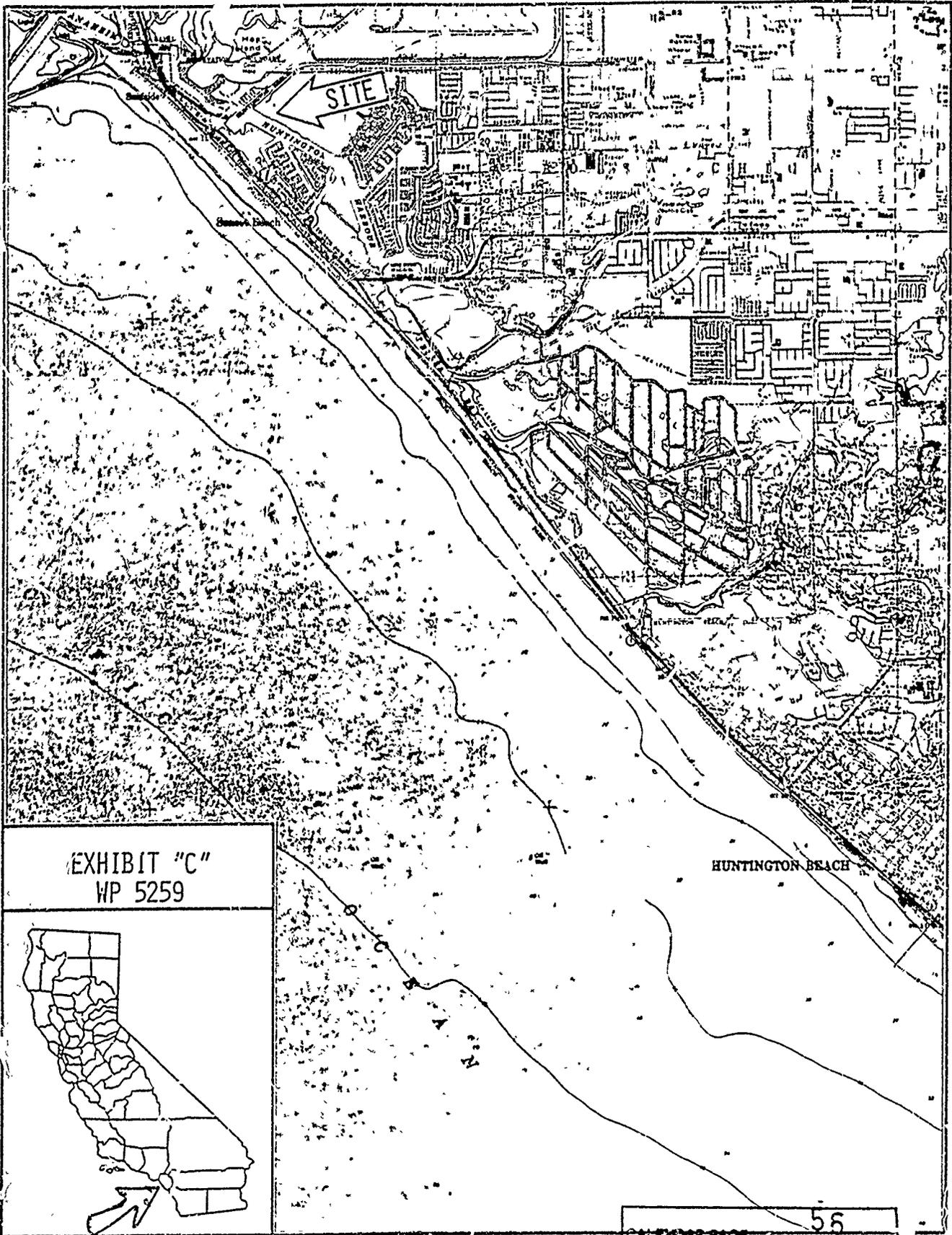


EXHIBIT "C"  
WP 5259



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